Case 06-10725-gwz Doc 2757 Entered 02/13/07 15:20:35 Page 1 of 7

ELECTRONICALLY	<b>FILED</b>
February 13, 2007	

1    STUTMAN, TREISTER & GLAT	Γ, P.C. SHEA & CARLYON, LTD.
FRANK A. MEROLA	JAMES PATRICK SHEA
2 (CA State Bar No. 136934)	(Nevada State Bar No. 000405)
EVE H. KARASIK	CANDACE C. CARLYON
(CA State Bar No. 155356)	(Nevada State Bar No. 002666)
ANDREW M. PARLEN (CA State Bar No. 230429) Member	SHLOMO S. SHERMAN
(CA State Bar No. 230429), Member	
1901 Avenue of the Stars, 12 <sup>th</sup> Floo	
Los Angeles, California 90067	Las Vegas, Nevada 89101
Telephone: (310) 228-5600	Telephone: (702) 471-7432
Facsimile: (310) 228-5788 Email: fmerola@stutman.co	Facsimile: (702) 471-7435
Email: <u>fmerola@stutman.co</u> <u>ekarasik@stutman.co</u>	<u> </u>
aparlen@stutman.co	<u></u>
Counsel for the Official Committee Of	m ssherman@sheacarlyon.com
Equity Security Holders Of USA Capit	
i	ar i iist Trust Deed Fulld, LDC
UNITED	STATES BANKRUPTCY COURT
	DISTRICT OF NEVADA
In re:	) BK-S-06-10725-LBR
USA COMMERCIAL MORTGAGE O	COMPANY, Chapter 11
Debtor.	) Chapter 11
In re:	) BK-S-06-10726-LBR
USA CAPITAL REALTY ADVISORS	S, LLC, Chapter 11
Debtor.	) Chapter 11
In re:	BK-S-06-10727-LBR
USA CAPITAL DIVERSIFIED TRUS	T DEED FUND, LLC, Chapter 11
Debtor.	) Chapter 11
In re:	BK-S-06-10728-LBR
USA CAPITAL FIRST TRUST DEED	FUND, LLC, Chapter 11
Debtor.	) Chapter 11
In re:	) BK-S-06-10729-LBR
USA SECURITIES, LLC,	) Chapter 11
Debtor.	)
Affects	
All Debtors	) <u>H</u> earing
USA Commercial Mortgage Co.	) <u>itearing</u>
USA Securities, LLC	) Date: March 15, 2007
USA Capital Realty Advisors, LLC	\
USA Capital Diversified Trust Deed	)
Susa First Trust Deed Fund, LLC	)
EN ODATHST Trust Deed Fulld, LLC	)
Namy and an	·· <del>·····</del>
NOTICE OF FILING AND HEA	RING RE SEVENTH OMNIBUS OBJECTION OF THE
OFFICIAL COMMITTEE OF EQ	QUITY SECURITY HOLDERS OF USA CAPITAL FIRST

NOTICE OF FILING AND HEARING RE SEVENTH OMNIBUS OBJECTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC – AMOUNT OF PROOFS OF INTEREST FILED BY SHERRY DEAN BULLOCK; ROSALIE ALLEN MORGAN; JOANN L MCQUERRY; LOUGHLIN FAMILY TRUST; FRIEDA MOON FBO SHARON C. VAN ERT; LOUIE AND CHARLOTTE POLANCO; JOSEPH GRGURICH; ROCCO J. ROCCO; AND HEINRICH RICHARD WEBER AND BRIGITTE S. WEBER (AFFECTS DEBTOR USA CAPITAL FIRST TRUST DEED FUND,

LLC)

2728

25

26

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	1.1

U.S. TRUSTEE

ALL PARTIES IN INTEREST

TO: FRIEDA MOON (on account of the proofs of claim (reclassified as proofs of interest)
filed by FRIEDA MOON FBO SHARON C. VAN ERT)
HEINRICH RICHARD WEBER AND BRIGITTE S. WEBER
JOANN L MCQUERRY
JOSEPH GRGURICH
LOUIE AND CHARLOTTE POLANCO
ROBERT J LOUGHLIN & ROBERTA L LOUGHLIN, TRUSTEES (on account of the proof of interest filed by the LOUGHLIN FAMILY TRUST)
ROCCO J. ROCCO
ROSALIE ALLEN MORGAN
SHERRY DEAN BULLOCK
USA CAPITAL FIRST TRUST DEED FUND, LLC

PLEASE TAKE NOTICE that on February 13, 2007, the "Seventh Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC to Proofs of Interest" (the "Objection") was filed by the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the "FTDF Committee"). The Objection has been filed to reconcile various equity interests asserted in USA Capital First Trust Deed Fund, LLC (the "FTDF") with the books and records of the FTDF. You should read it. You filed a proof of interest that asserts an equity interest that is different than your equity interest as of the date the FTDF filed its chapter 11 bankruptcy petition (the "Petition Date") as shown in the books and records of FTDF.

Pursuant to the Objection, the FTDF Committee objects to the proofs of interest referenced therein (the "Subject Interests") on the grounds that they do not assert the correct amount of the equity security interests held in the FTDF as of the Petition Date by the parties who filed the Subject Interest (the "Parties"). By the Objection, the FTDF Committee requests that the Subject Interests be disallowed to the extent they assert amounts in excess of each respective Party's equity interest in the FTDF as of the Petition Date as reflected in the Debtors' books and records and allowed in the amount of each Party's equity interest in the FTDF as of the Petition Date per the Debtors' books and records. By this Objection, the FTDF Committee does not seek to prejudice the rights of any member of the FTDF ("FTDF Members") who filed a Subject Interest to recover from the FTDF estate on account of his or her membership interest in the FTDF. A detailed list of all of the Subject Interests and the relief sought with respect to each Subject Interest 409017v1

## Case 06-10725-gwz Doc 2757 Entered 02/13/07 15:20:35 Page 3 of 7

is set forth on Exhibit "1" to the Objection. The Subject Interests to which this notice pertains and 2 | the requested treatment of such claims by the FTDF Committee are as follows:

Proof of Interes No.	Interest t Holder	Account ID #	Date Proof of Interest	Asserted Equity Interest Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
6 72	Sherry Dean	9053	11/10/06	\$45,457.80	\$42,070.50	Disallow proof of interest to
7	Bullock			į		the extent it
8						exceeds \$42,070.50.
9						The amount
10						asserted in excess of
1						\$42,070.50 is
						on account of an investment
2						unrelated to the
.3						USA Capital
4						bankruptcy cases.
5 73	Rosalie Allen	8238	11/13/06	\$105,342.00 plus interest	\$105,342.00	Disallow proof
6	Morgan			plus interest		of interest to the extent it
7						exceeds \$105,342.00.
3						The amount
						asserted in excess of
9						\$105,342.00 is
.0						on account of
1						anticipated but unpaid
2						postpetition
3	<u> </u>	<u>                                     </u>	<u></u>			dividends.

409017v1

1 2 3	Proof of Interest No.	Equity Interest Holder	Account ID#	Date Proof of Interest	Asserted Equity Interest Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
4	74	Joann L	5627	12/4/06	\$655,584.00	\$25,000.00	Disallow proof
5		McQuerry			plus interest		of interest to the extent it
6							exceeds
							\$25,000.00.
7							The amount asserted in
8							excess of
9							\$25,000.00 are
10							on account of investments
							made in deeds
11							of trust through USA
12							Commercial
13							Mortgage
14	75	Loughlin	N/A	12/4/06	\$1,055,000.00	\$0.00	Company.  Disallow proof
	:	Family				44.00	of interest in
15		Trust					full because
16		•					Loughlin Family Trust is
17						:	not a member
18					ĺ		of the FTDF. The amount
	!			i			asserted by the
19							proof of
20							interest is on account of
21						į	investments
22							made in deeds
							of trust through USA
23							Commercial
24				;			Mortgage Company.
25	<u> </u>	·	<u> </u>	<u>.                                      </u>			Company.

2:

26

27

28

Case 06-10725-gwz Doc 2757 Entered 02/13/07 15:20:35 Page 5 C	Case 06-10725-gwz	Doc 2757	Entered 02/13/07 15:20:35	Page 5 of 7
---	-------------------	----------	---------------------------	-------------

2 <b>I</b> 13	Proof of nterest No.	Equity Interest Holder	Account ID#	Date Proof of Interest	Asserted Equity Interest Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
5 6 7 8 9	FTDF Claim no. 6	Frieda Moon FBO Sharon C. Van Ert	4153	May 23, 2006	\$35,583.34	\$35,000.00	Disallow proof of interest to the extent it exceeds \$35,000.00. The filed proof of interest asserts no basis for the amount in excess of \$35,000.00
111	FTDF	Frieda	1538	May 23,	\$17,538.18	\$17,279.00	\$35,000.00. Disallow proof
^	Claim no. 7	Moon FBO Sharon C.		2006			of interest to
2	120. 7	Van Ert					the extent it exceeds
3							\$17,279.00.
4				f		:	The filed proof of interest
		1		:			asserts no basis
5			İ	İ			for the amount
6							in excess of
/ 111	FTDF	Louie and	471	June 23,	\$13,110.26	\$12,214.50	\$17,279.00. Disallow proof
	Claim	Charlotte		2006		,	of interest to
8   n	ю. 19	Polanco					the extent it exceeds
9							\$12,214.00.
)		i					The amount
1			•				asserted in excess of
							\$12,214.50 is
2						) 	on account of
3							anticipated but unpaid
1							postpetition
							dividends.

409017v1 5

Case 06-10725-gwz Doc 2757 Entered 02/13/07 15:20:35 Page 6 of	Case 06-10725-gwz	Doc 2757	Entered 02/13/07 15:20	):35 Page 6 of
--	-------------------	----------	------------------------	----------------

Claim   no. 20   Claim   no. 20   FTDF   Rocco J.   Claim   no. 25   FTDF   Claim   no. 25   To filed proof of interest asset in exceeds   \$10,000.00   To filed proof of interest asset no basis for the extent it exceeds   \$10,000.00   To filed proof of interest asset no basis for the extent it exceeds   \$10,000.00   To filed proof of interest to the extent it exceeds   \$10,000.00   To filed proof of interest asset no basis for the extent it exceeds   \$10,000.00   To filed proof of interest to the extent it exceeds   \$10,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the extent it exceeds   \$30,000.00   To filed proof of interest to the e	1 2 3	Proof of Interest No.	Equity Interest Holder	Account ID #	Date Proof of Interest	Asserted Equity Interest Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
FTDF   Claim   no. 25   Rocco   Golf   July 7, 2006   \$10,000.00   Disallow proof interest to the extent it exceeds \$10,000.00   To interest to the extent it excess of \$10,000.00   To interest to the extent it excess of \$10,000.00   To interest to the extent it excess of \$10,000.00   To interest to the extent it excess of \$10,000.00   To interest to the extent it exceeds \$10,000.00   To interest to the extent it exceeds \$30,000.00   To inte	5 6 7	III	Joseph Grgurich	9690		\$25,000.00		, <b>~</b>
Claim   no. 25   Rocco   2006   2006   310,000.00   of interest to the extent it exceeds   \$10,00.00   of interest to the extent it exceeds   \$10,00.00   of interest assern no basis for amount in excess of \$10,000.00   of interest to the extent it exceeds   \$10,000.00   of interest to the extent it exceeds   \$10,000.00   of interest to the extent it exceeds   \$30,000.00   of interest	8	FTDF	Rocco I	6016	Inly 7	¢10 122 00	£10,000,00	
the extent it exceeds \$10,00.00. To filed proof of interest assern no basis for amount in excess of \$10,000.00.  FTDF Claim no. 26 Weber and Brigitte S. Weber  18 19 20 21 21 22 21 21	9	III		0010		\$10,132.00	\$10,000.00	
\$10,00.00. The filed proof of interest assert in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated in excess of should be stated by the stated be should be stated by the stated be should be stated by the s	10	no. 25						_
12   13   14   15   16   17   16   17   17   18   19   19   19   19   19   19   19	11							1
13   14   15   FTDF   Heinrich   2006   S10,000.00   S30,000.00   Disallow pro of interest to the extent it exceeds   S30,000.00   S30,								filed proof of
14   15   FTDF   Heinrich   9771   July 21,   \$30,275.00   \$30,000.00   Disallow pro of interest to the extent it exceeds   \$30,00.00. Tamount asserted in excess of \$30,000.00 is on account of anticipated by unpaid								interest asserts
14	13							l :
Heinrich Richard Weber and Brigitte S. Weber  Heinrich Richard Weber and Brigitte S. Weber  Solution 17	14							excess of
Claim no. 26 Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber  Richard Weber and Brigitte S. Weber	15	FTDF	Heinrich	9771	July 21	\$30.275.00	£20,000,00	
Brigitte S. Weber  Brigitte S. Weber  Brigitte S. Weber  Solution in the extent it exceeds \$30,00.00. To amount asserted in excess of \$30,000.00 is on account of anticipated by unpaid		Claim	Richard			\$30,273.00	\$30,000.00 	of interest to
18 19 20 21 21 21 22	17	;	Brigitte S.	1		ļ		
asserted in excess of \$30,000.00 is on account of anticipated by unpaid	18		Weber		Ì			\$30,00.00. The
20 \$30,000.00 is on account of anticipated by unpaid						į		
21 on account of anticipated by unpaid	li li						į	excess of
21 anticipated by unpaid	20					1		
// III	21							anticipated but
	22					1	1	unpaid
23 dividends.								postpetition dividends

PLEASE TAKE FURTHER NOTICE that the hearing on the Objection will be held before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on March 15, 2007, at the hour of 9:30 a.m.

409017v1

1 PLEASE TAKE FURTHER NOTICE that this hearing may be continued from time to time without further notice except for the announcement of any adjourned dates and time 2 3 at the above noticed hearing or any adjournment thereof. PLEASE TAKE FURTHER NOTICE that any response to the Objection must 4 5 be filed by March 8, 2007 pursuant to Local Rule 3007(b), which states: 6 If an objection to a claim is opposed, a written response must be filed and served on the objecting party at least 5 business days 7 before the scheduled hearing. A response is deemed sufficient if it states that written documentation in support of the proof of claim 8 has already been provided to the objecting party and that the documentation will be provided at any evidentiary hearing or trial 9 on the matter. 10 11 If you object to the relief requested, you must file a WRITTEN response to this 12 pleading with the court. You must also serve your written response on the person who sent you 13 this notice. 14 If you do not file a written response with the court, or if you do not serve your 15 written response on the person who sent you this notice, then: 16 ! The court may refuse to allow you to speak at the scheduled hearing; and 17 The court may rule against you without formally calling the matter at the ļ 18 hearing. 19 20 DATED: February 13, 2007 <u>/s/ Andrew M. Parlen</u> Andrew M. Parlen, Esq. 21 Stutman, Treister & Glatt 22 **Professional Corporation** Counsel to the Official Committee of Equity 23 Security Holders of USA Capital First Trust Deed Fund, LLC 24 25 26 27 28

7

409017v1